

**IN THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT
OF OHIO EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:
All Cases

MDL NO. 2804

Civ. No. 1:17-md-02804-DAP

HON. JUDGE DAN A. POLSTER

**THE SCHEIN DEFENDANTS' JOINDER TO CERTAIN DEFENDANTS'
NOTICE OF POSITION REGARDING *IN LIMINE* EVIDENTIARY RULINGS AND
ORDERS OF DECEMBER 26, 2019 AND JANUARY 3, 2020**

Henry Schein, Inc. ("HSI") and Henry Schein Medical Systems, Inc. ("HSMS") (collectively, the "Schein Defendants") file this joinder to Certain Defendants' Notice of Position Regarding *in Limine* Evidentiary Rulings and Orders of December 26, 2019 and January 3, 2020, filed on January 31, 2020. (Dkt. 3133) (the "Original Notice".)

This Court entered a stipulated dismissal with prejudice of HSMS on October 9, 2019. (Dkt. 2754.) Subsequently, the Court entered an order dismissing HSI with prejudice on October 29, 2019. (1:18-op-45090-DAP, Dkt. 183.) On December 26, 2019, the Court entered what is captioned as an "Evidentiary Order" relating to *in limine* motions that were filed in the Track One *Summit and Cuyahoga County* cases, but were no longer pending before the Court. (Dkt. 3052.) On January 3, 2020, the Court entered that same order captioned as a "Nunc Pro Tunc Evidentiary Order," which made a minor change to one sentence in the December 26 Order. (Dkt. 3058) (the December 26 and January 3 orders are collectively referred to herein as the "Orders".) The Orders purport to memorialize the Court's ruling from the bench on October 15, 2019 – shortly before the scheduled trial in the Track One Cases. HSMS was not a party to either Track One case at the

time of the Court's ruling from the bench on October 15, 2019. (Dkt. 2754, 3052.) Neither HSMS nor HSI were parties to either Track One case at the time the Orders were entered by the Court. (Dkt 2754, 1:18-op-45090-DAP, Dkt. 183.)

The Schein Defendants join the Original Notice. For the reasons set forth by other defendants in the Original Notice, the Orders and pretrial rulings contained therein are also not binding in other actions pending before the MDL court or those remanded to transferor courts as to the Schein Defendants. The Schein Defendants preserve their right to object to the Orders (as to both whether they are binding and the substance of the rulings themselves) in subsequent proceedings where there is jurisdiction to do so. The Schein Defendants further preserve their right to file motions that have the effect of challenging the Orders without making the additional threshold showing the Orders suggest would be required.

Dated: February 3, 2020

Respectfully submitted,

/s/ John P. McDonald

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CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2020, I electronically filed the foregoing with the clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorneys of record at their email addresses on file with the Court.

/s/ Brandon J. Montminy

Brandon Montminy